

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

LOWELL QUINCY GREEN, #518622	§	
v.	§	CIVIL ACTION NO. 6:16cv1261
LORIE DAVIS, DIRECTOR, ET AL.	§	

ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Lowell Green (Green), proceeding *pro se* and *in forma pauperis*, filed this civil rights action under 42 U.S.C. § 1983. After this Court adopted the Magistrate Judge’s Report recommending that Green’s case be dismissed for his failure to prosecute, Green filed a motion for reconsideration, (Dkt. #23). The Magistrate Judge then recommended that, because Green’s objections and motions indicate that he has made a good-faith effort to properly plead his civil rights lawsuit, Green’s motion for reconsideration should be granted and Green should be afforded one additional opportunity to plead his case. (Dkt. #25).

Green has filed objections to this most recent Report, (Dkt. #30). He maintains that the Magistrate Judge’s “allegations are erroneous and arbitrary abuses of discretion,” and that she disregarded the defects in his criminal indictment. However, the Magistrate Judge did not make any findings in her Report; rather, she recognized that the crux of Green’s case was his complaint about his indictment and determined that he should be afforded one additional opportunity to plead his case regarding the allegedly defective indictment. Accordingly, Green’s objections are without merit.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge’s proposed findings and recommendations to which Plaintiff objected. *See* 28 U.S.C. §636(b)(1) (District Judge shall “make a *de novo* determination of those portions of the report or

specified proposed findings or recommendations to which objection is made.”). Upon such *de novo* review, the Court has determined that the Report of the United States Magistrate Judge is correct and the Plaintiff’s objections are without merit. Accordingly, it is

**ORDERED** that Plaintiff’s objections, (Dkt. #30), are overruled and the Report of the Magistrate Judge is **ADOPTED**. Further, it is

**ORDERED** that Plaintiff’s motion for reconsideration, (Dkt. #23), is **GRANTED**. Plaintiff’s case shall be reopened and placed on the active docket. Moreover, it is

**ORDERED** that Plaintiff shall file his amended complaint—on the proper section 1983 form, which can be found within the prison library—within thirty (30) days from receipt of this order. Failure to file an amended complaint as specified by this order may result in the dismissal of this lawsuit for failure to prosecute or for failing to obey an order of the Court. Plaintiff shall ensure that his case number, 6:16-cv-1261, appears prominently on the front page of the form. The Clerk shall send to Plaintiff a standard section 1983 lawsuit form for his use in compliance of this order.

**So Ordered and Signed**

Mar 9, 2018



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Ron Clark, United States District Judge